WATER

Workable Approach To Environmental Regulation

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June 15, 2006

6/21/06 BdMtg Item 10
Boeing Company
Deadline: 6/15/06 5 pm

RECEIVED
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SWRCB
Executive Ofc.

Tam Doduc, Chair
State Water Resources Control Board
Office of Chief Counsel
1001 "I" Street, 22nd Floor
P.O. Box 100
Sacramento, CA 95812-0100

Subject: **Continued Imposition of Numeric Effluent Limits for Storm Water Flows in Regional Board Permits and TMDLs in Advance of Statewide Storm Water Policy.**

Dear Ms. Doduc:

WATER is a statewide, broad-based coalition of environmentally conscious public entities, business organizations, tax payers, school districts, agricultural organizations and other entities that are actively involved in working with the State Water Resources Control Board (SWRCB) on statewide water quality policies and issues that impact all Californians. The WATER coalition is acutely concerned with the application of numeric limits to storm water flows, and have been closely following the activities of the State Water Resources Control Board (SWRCB) and regional board permit proceedings that may result in the application of numeric limits to storm water flows.

A permit recently issued to the Boeing Company by the Los Angeles Regional Water Quality Control Board is just one of many that have been adopted in recent years that apply very low numeric limits to storm water flows. Boeing has petitioned the SWRCB to review these limits and related conditions in this permit.[1] Additionally, a number of TMDLs have been adopted throughout the State that will require compliance with numeric limits in the future. These limits will apply to storm water flows from industrial facilities, from construction sites, from public lands, and from municipal separate storm sewers (MS4s). Compliance with these limits will be exceptionally difficult, both due to the intermittent nature and high volumes of storm water flows and due to the technical challenges of treating storm water to meet the extraordinarily low numeric limits – limits that are many times more stringent than drinking water standards.

[1] **Boeing Company's petition for Review of Waste Discharge Requirements; SWRCB/OCC File No. A-1737.**

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The cost of compliance will extend far beyond the cost to storm water permittees. For example, compliance with the numeric limits imposed by the San Diego Regional Board in a TMDL adopted to control metals in Chollas Creek may require the condemnation of industrial land and up to 8,960 residential dwelling units, potentially displacing over 23,000 people (see attached letter from the City Attorney, City of San Diego, to the SWRCB dated January 6, 2006).

Numeric effluent limits also pose a national security risk for our military. In a letter to State Board Chief Deputy Director Tom Howard, Rear Admiral Len Hering, Commander Navy Region Southwest writes that numeric storm water limits "will be disruptive to our national security mission and extremely costly to implement." Admiral Hering further noted, "the precedent of applying this standard to our port facilities could have significant implications to port facilities throughout California, as well as other industrial areas, and have implications to the ongoing goods movement initiative underway by the Business, Transportation and Housing Agency and Cal/EPA."

CWA
CALIFORNIA WOMEN for AGRICULTURE

We believe that the imposition of numeric effluent limits to storm water flows is, at the very least premature at this time, for the following reasons:

1. <u>Development of a Statewide Storm Water Policy</u>

The SWRCB, in preparation for developing the statewide Policy for the Implementation of the Storm Water Program (Policy), held three workshops in January 2005 to hear stakeholder concerns regarding implementation of the storm water program. The central issue that was raised at these workshops is the applicability of numeric effluent limits to storm water flows. Many commenters expressed support for a statewide policy to address how storm water flows will be managed.

CCGA

2. <u>Storm Water Panel of Experts Recommendations on Feasibility of Numeric Effluent Limits</u>

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The SWRCB also convened a storm water panel of third party experts on September 14-15, 2005, to evaluate the technical feasibility of establishing numeric effluent limits, and to consider other objective criteria for storm water permits. The panel was also charged with issuing recommendations that address how such limitations or criteria would be established, what data would be required, how compliance determinations would be made and the technical and financial ability of dischargers to comply with the limitations or criteria.

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The Panel's findings and recommendations will help address the many complex issues surrounding compliance with storm water discharge standards. If in fact the Panel determines it is possible to assign numeric effluent limits to storm water flows, it is uncertain which measures would be required to comply with numeric limits, for example, while Best Management Practices (BMPs) can and do result in significant improvements in water quality, the ability of BMPs to consistently achieve low numeric limits for storm water flows is unproven. Alternatives to BMPs are potentially costly, disruptive, and may be infeasible.

Both BMPs and their alternatives may have significant environmental impacts through changes in the timing and magnitude of flows in receiving waters, significant energy consumption and the generation of high volume waste streams. In a very real sense, it is unclear that the environmental benefit of complying with numeric limits would outweigh the environmental and social costs of compliance.

We understand the Panel's report is expected to be released to the public shortly and therefore, given the significance of the questions posed to the Panel and its subsequent findings and recommendations, we believe it is appropriate and prudent for the SWRCB to review the Panel's findings before it issues statewide storm water policy and before it rules on appeals of regional board permits containing numeric effluent limits for storm water flows.

3. Additional Technical and Scientific Issues Need to be Addressed

There are a number of scientific and technical issues that should be addressed before numeric limits are applied to storm water flows. For example, the SWRCB is beginning to look at the issue of atmospheric deposition as one contributing source of pollutants in storm water flows. Also, such issues involving erosion of native soils and storm flow "run-on" from adjacent lands can also contribute significant concentrations of pollutants to storm water flows, yet to date, no allowance has been made for these sources when numeric limits have been applied.

Additionally, the hydrologic conditions ("design storm" conditions) for which numeric limits may apply will have a tremendous impact on the cost and technical feasibility of compliance. In some instances, numeric limits are being applied to storm water flows for each and every storm event, regardless of size, duration, or frequency, and without a compliance schedule, interim limits, or other measures that would give dischargers time to install and evaluate controls and come into compliance. Finally, the question of whether sampling should occur at "end-of-pipe" or in receiving waters needs further consideration. The Navy anticipates releasing a study in the near future which should prompt thoughtful discussion of this issue.

The WATER coalition supports the SWRCB's efforts to develop a consistent, statewide storm water policy based on sound scientific principles, and we look forward to working with the SWRCB toward this end. Until this policy is adopted, the SWRCB and the regional boards should not mandate numeric effluent limits for storm water flows in permits or TMDLs.

Sincerely,

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Agriculture, Water, Resources
& Privacy Director
California Chamber of Commerce

Mike Falasco
Legislative Representative
California Wine Institute

Michael Rogge
Legislative Director, Environmental Quality
California Manufacturers & Technology Association

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